

AMENDED IN SENATE AUGUST 19, 2016
AMENDED IN SENATE AUGUST 2, 2016
AMENDED IN SENATE JUNE 22, 2016
AMENDED IN ASSEMBLY MAY 12, 2016
AMENDED IN ASSEMBLY APRIL 25, 2016
AMENDED IN ASSEMBLY APRIL 12, 2016
AMENDED IN ASSEMBLY MARCH 16, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2148

Introduced by Assembly Member Holden

February 17, 2016

An act to amend Section 3003.5 of, and to add Sections 1746 and 2001.5 to, the Fish and Game Code, and to add Article 4 (commencing with Section 5085) to Chapter 1.2 of Division 5 of the Public Resources Code, relating to unmanned aircraft systems.

LEGISLATIVE COUNSEL'S DIGEST

AB 2148, as amended, Holden. Unmanned aircraft systems: ~~managed lands or waters; take of fish and wildlife; operation or use within or over state-managed lands or waters.~~

Existing federal law, the Federal Aviation Administration Modernization and Reform Act of 2012, provides for the integration of civil and public unmanned aircraft systems, commonly known as drones, into the national airspace system. Existing law establishes both the Department of Fish and Wildlife and the Department of Parks and

Recreation in the Natural Resources Agency. A violation of any rule or regulation made or adopted by the Department of Fish and Wildlife pursuant to the Fish and Game Code is a misdemeanor. A violation of the rules and regulations established by the Department of Parks and Recreation to protect the state park system is punishable as either a misdemeanor or an infraction.

This bill would make it unlawful for any person to ~~launch, land, or operate an unmanned aircraft system from or within lands, waters, or airspace in, or fly an unmanned aircraft system over, lands or waters~~ managed by the Department of Fish and Wildlife and Department of Parks and Recreation, except as authorized ~~by these departments~~, or unless exempted from this prohibition. The bill would authorize the ~~departments to consider~~ *consideration of* certain factors when reviewing a request for the departments' authorization for the use of an unmanned aircraft system.

The bill would also make it unlawful to use an unmanned aircraft system to take, or assist in the ~~taking take~~ of, fish or ~~wildlife~~, *wildlife for sport purposes*, including, but not limited to, the use of unmanned aircraft systems for scouting purposes. The bill would provide that an unmanned aircraft system is a motorized air vehicle within the meaning of a certain existing prohibition and, thus, under that prohibition may not be used to pursue, drive, or herd any bird or mammal, except as specified, including, among other things, specified permits and notices.

Because violations of the provisions of the bill would be crimes, the bill would impose a state-mandated local program.

The bill would provide that certain of its provisions are severable and do not apply to the operation of an unmanned aircraft system by ~~any person who a state agency within or over these managed lands or waters, or to any person whom~~ the Federal Aviation Administration authorizes to operate ~~a remote-piloted~~ *an unmanned aircraft system* for a commercial purpose and who operates it in a manner that complies with that authorization.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature that the state fully cooperate with the Federal Aviation Administration regarding the appropriate division of responsibility for the regulation of unmanned aircraft systems between the federal and state governments so that the state may reserve and fully exercise any and all appropriate authority pursuant to federal laws as they exist in their current form and as they may be further amended hereafter.

SEC. 2. Section 1746 is added to the Fish and Game Code, to read:

1746. (a) It shall be unlawful for any person to ~~launch, land, or operate an unmanned aircraft system from department-managed lands, as defined in Section 1745, or within department-managed airspace;~~ *in, or fly an unmanned aircraft system over, the department's managed lands or waters,* except as authorized by the department, or unless otherwise exempted from this section.

(b) The prohibition in subdivision (a) ~~pertaining does not apply to the operation of an unmanned aircraft systems within department-managed airspace does not apply to the operation of an unmanned aircraft system by a person whom the Federal Aviation Administration;~~ *system by a state agency within or over department-managed lands or waters, or to any person whom the Federal Aviation Administration,* whether by permit, license, rule, or regulation, authorizes to operate ~~a remotely piloted an unmanned aircraft system~~ for a commercial purpose and that is operated in a manner that complies with that authorization and the applicable regulations of the ~~department.~~ *commission.*

(c) The prohibition in subdivision (a) does not apply to ~~any of the following:~~ *legitimate news-gathering activity by a person described in Section 1070 of the Evidence Code.*

(1) ~~The appropriate use of unmanned aircraft systems for conservation and scientific research purposes.~~

(2) ~~Legitimate news-gathering activity by a person described in Section 1070 of the Evidence Code.~~

(d) The ~~department~~ *commission* may draft regulations consistent with this section and the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). *In drafting the regulations, the commission shall maintain the authority to limit or revoke*

1 *approved requests for the use of an unmanned aircraft system due*
2 *to changing natural conditions or land management requirements.*

3 (e) In reviewing a request to *authorize the use of* an unmanned
4 aircraft system *the department may*, and in drafting the regulations
5 authorized pursuant to subdivision (d), ~~the department may~~
6 *commission may*, consider any of the following:

7 (1) Protection of wildlife and visitors from harassment or
8 disturbance.

9 (2) Harm to sensitive species, including those listed as threatened
10 or endangered or that have other protected status.

11 (3) Disruption to wildlife at times of the year when incidents
12 may have adverse effects, including, but not limited to, nesting,
13 breeding, gestation, and migration seasons.

14 (4) The natural, cultural, and historic value of the
15 department-managed lands.

16 (5) The purpose of the department-managed lands.

17 (6) Operation of an unmanned aircraft system in a careless or
18 reckless manner, including an operator's failure to adhere to visual
19 line-of-sight practices.

20 (7) *De minimis access by adjacent landowners for bona fide*
21 *agricultural purposes.*

22 (8) *The appropriate use of unmanned aircraft systems for*
23 *conservation and scientific research purposes.*

24 (9) *Authorization for pursuit and take for depredation purposes*
25 *pursuant to Sections 3003.5 and 4181.*

26 ~~(7)~~

27 (10) Other special purposes as approved by the department.

28 (f) The provisions of this section are severable. If any provision
29 of this section or its application is held invalid, that invalidity shall
30 not affect other provisions or applications that can be given effect
31 without the invalid provision or application.

32 SEC. 3. Section 2001.5 is added to the Fish and Game Code,
33 to read:

34 2001.5. It shall be unlawful to use an unmanned aircraft system
35 to take, or assist in the ~~taking~~ *take* of, fish or ~~wildlife~~, *wildlife for*
36 *sport purposes*, including, but not limited to, the use of unmanned
37 aircraft systems for scouting purposes.

38 SEC. 4. Section 3003.5 of the Fish and Game Code is amended
39 to read:

1 3003.5. It is unlawful to pursue, drive, or herd any bird or
2 mammal with any motorized water, land, or air vehicle, including,
3 but not limited to, a motor vehicle, airplane, unmanned aircraft
4 system, powerboat, or snowmobile, except in any of the following
5 circumstances:

6 (a) On private property by the landowner or tenant thereof to
7 haze birds or mammals for the purpose of preventing damage by
8 that wildlife to private property.

9 (b) Pursuant to a permit from the department issued under
10 regulations as the commission may prescribe. With respect to
11 unmanned aircraft systems, this subdivision shall include a lawful
12 ~~predation~~ *depredation* permit issued by the department, notice to
13 the department of the intended use of an unmanned aircraft system,
14 approval from the department, and notice to the landowner.

15 (c) In the pursuit of agriculture.

16 SEC. 5. Article 4 (commencing with Section 5085) is added
17 to Chapter 1.2 of Division 5 of the Public Resources Code, to read:
18

19 Article 4. Unmanned Aircraft Systems
20

21 5085. (a) It shall be unlawful for any person to ~~launch, land,~~
22 ~~or operate an unmanned aircraft system from department-managed~~
23 ~~lands or waters or within department-managed airspace, in, or fly~~
24 ~~an unmanned aircraft system over, Department of Parks and~~
25 ~~Recreation managed lands or waters,~~ except as authorized by the
26 department, or unless otherwise exempted from this article.

27 (b) The prohibition in subdivision (a) ~~pertaining to the operation~~
28 ~~of unmanned aircraft systems within department-managed airspace~~
29 ~~does not apply to the operation of an unmanned aircraft system by~~
30 ~~a person whom the Federal Aviation Administration, does not~~
31 ~~apply to the operation of an unmanned aircraft system by a state~~
32 ~~agency within or over department-managed lands or waters, or~~
33 ~~to any person whom the Federal Aviation Administration, whether~~
34 ~~by permit, license, rule, or regulation, authorizes to operate a~~
35 ~~remotely piloted an unmanned aircraft system for a commercial~~
36 ~~purpose and that is operated in a manner that complies with that~~
37 ~~authorization and the applicable regulations of the department.~~

38 (c) The prohibition in subdivision (a) does not apply to ~~any of~~
39 ~~the following:~~ *legitimate news-gathering activity by a person*
40 *described in Section 1070 of the Evidence Code.*

1 ~~(1) The appropriate use of unmanned aircraft systems for~~
2 ~~conservation and scientific research purposes.~~

3 ~~(2) Legitimate news-gathering activity by a person described~~
4 ~~in Section 1070 of the Evidence Code.~~

5 (d) The department may draft regulations consistent with this
6 section and the Administrative Procedure Act (Chapter 3.5
7 (commencing with Section 11340) of Part 1 of Division 3 of Title
8 2 of the Government Code). *In drafting the regulations, the*
9 *department shall maintain the authority to limit or revoke approved*
10 *requests for the use of an unmanned aircraft system due to*
11 *changing natural conditions or land management requirements.*

12 (e) In reviewing a request to use an unmanned aircraft system
13 ~~and~~ or in drafting the regulations authorized pursuant to subdivision
14 (d), the department may consider any of the following:

15 (1) Protection of wildlife and visitors from harassment or
16 disturbance.

17 (2) Harm to sensitive species, including those listed as threatened
18 or endangered or that have other protected status.

19 (3) Disruption to wildlife at times of the year when incidents
20 may have adverse effects, including, but not limited to, nesting,
21 breeding, gestation, and migration seasons.

22 (4) The natural, cultural, and historic value of the
23 department-managed lands.

24 (5) The purpose of the department-managed lands.

25 (6) Operation of an unmanned aircraft system in a careless or
26 reckless manner, including an operator's failure to adhere to visual
27 line-of-sight practices.

28 (7) *De minimis access by adjacent landowners for bona fide*
29 *agricultural purposes.*

30 (8) *The appropriate use of unmanned aircraft systems for*
31 *conservation and scientific research purposes.*

32 ~~(7)~~

33 (9) Other special purposes as approved by the department.

34 (f) The provisions of this section are severable. If any provision
35 of this section or its application is held invalid, that invalidity shall
36 not affect other provisions or applications that can be given effect
37 without the invalid provision or application.

38 SEC. 6. No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution because
40 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the penalty
3 for a crime or infraction, within the meaning of Section 17556 of
4 the Government Code, or changes the definition of a crime within
5 the meaning of Section 6 of Article XIII B of the California
6 Constitution.

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